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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,185	01/18/2002	Sander Palvoelgyi	19361-089285	1155
28886	7590	07/05/2005	EXAMINER	
CLARK HILL, P.C. 500 WOODWARD AVENUE, SUITE 3500 DETROIT, MI 48226			SMALLEY, JAMES N	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,185

Applicant(s)

PALVOELGYI ET AL.

Examiner

James N. Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/11/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

1. Due to the new grounds of rejection based on reading a reinforcement member in Palvolgyi US 6,685,045, contrary to the previous Action, this action is **Non-Final**.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-4, 7 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palvolgyi US 6,685,045:

Palvolgyi '045 teaches a wall (1) for enclosing a fluid, an inwardly flanged lip (8) forming an opening through a portion of the wall, a removable lid (2), first and second spaced apart radial grooves, first (10) and second (9) sealing rings seated in the grooves, and a sealing gap (19).

Palvolgyi '045 does not explicitly teach a reinforcement member fixedly secured to the inside wall forming a shoulder to support the circumferential periphery of the inwardly flanged lip. However, Examiner notes the thicker upper end (5) of the filler neck comprises an inwardly flanged conical lip sealing surface (8), and, a reinforcement, comprising the flat bottom portion located underneath the surface (8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the thicker upper end (5) of the filler neck of Palvolgyi '045 as a sealing surface, and, as

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a reinforcement, because it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Response to Arguments

5. Applicant's arguments filed 24 March 2005 have been fully considered but they are not persuasive.

Applicant argues Palvolgyi '045 does not teach a reinforcement member.

It is the Examiner's contention that Palvolgyi '045 actually does in fact teach a reinforcement member. To support this assertion, Examiner notes the following references:

a) Stanek et al. US 5,746,359 (previously cited), teaching an inwardly turned sealing surface/shelf (47) which is not reinforced, and whereby an internally threaded cap plug seals the opening by sealing against this unsupported surface.

b) McGarahan US 1,417,341 (currently cited), teaching an inwardly turned sealing surface (6) which is not reinforced, and whereby an internally threaded cap plug seals the opening by sealing against this unsupported surface.

The cited references teach similar threaded cap structures as that of Palvolgyi '045, except they lack a reinforcement that the inwardly turned flange of Palvolgyi '045 provides as an integral structure.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,685,045. Although the conflicting claims are not identical, they are not patentably distinct from each other because Palvolgyi '045 does not explicitly teach a reinforcement member fixedly secured to the inside wall forming a shoulder to support the circumferential periphery of the inwardly flanged lip. However, Examiner notes the thicker upper end (5) of the filler neck comprises an inwardly flanged conical lip sealing surface (8), and, a reinforcement, comprising the flat bottom portion located underneath the surface (8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the thicker upper end (5) of the filler neck of Palvolgyi '045 as a sealing surface, and, as a reinforcement, because it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Allowable Subject Matter

8. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
See attached PTO-892, teaching various threaded seals with multiple gaskets and reinforced neck openings.

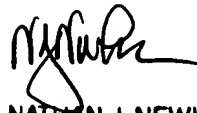
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on M-Th 9-6:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns


NATHAN J. NEWHOUSE
PRIMARY EXAMINER